

Senate Bill 4 Implementation Plan

On September 20, 2013, Governor Brown signed into law Senate Bill 4 (SB 4 or “the Act”). SB 4 complements existing rules that require some of the strongest well construction and operation standards in the nation by enacting further safeguards to public health and safety and the environment regarding the practices known as well stimulation, including hydraulic fracturing.

SB 4 requires a permit from the Division of Oil, Gas and Geothermal Resources (“Division”) to conduct well stimulation. The permit application must include detailed information about the fluids to be used, a ground water monitoring plan, and a water management plan. Copies of an approved permit must be sent to neighboring property owners and tenants, and water well testing must be provided upon request. SB 4 requires the Division to prepare regulations to ensure that well stimulation is done safely and to require detailed public disclosure about the well stimulation. The Division must develop an internet website to facilitate public disclosure of well stimulation information, and the website must allow the public to easily search and aggregate the information. In addition, the State Water Resources Control Board must develop groundwater modeling criteria and implement a regional ground water monitoring program.

The well stimulation regulations that the Division will develop will be among the most protective in the nation and will address important operational requirements such as pressure testing, well evaluation, geologic evaluation, well monitoring, and storage and handling of fluids. The Division will also develop regulations to implement the Act's permitting and neighbor notification requirements.

SB 4 requires the Division to prepare an environmental impact report, consistent with the California Environmental Quality Act, addressing the practice of well stimulation in California. Additionally, the Act requires the Natural Resources Agency to complete an independent scientific study on well stimulation treatments. The results of the EIR and the independent study will inform the state’s regulation of these practices in the years to come.

October, 2013: Contact Affected Agencies and Reach Interagency Agreements. SB 4 requires the Division to consult with the Department of Toxic Substances Control, California Air Resources Board, State Water Resources Control Board and various other state and local agencies as it develops its regulations. That process has already begun and is ongoing. Formal agreements between the agencies respecting their authority, responsibility and other matters are to be entered into by January 1, 2015.

November 15, 2013: Permanent Regulations. On November 15, the Department will release a permanent set of regulations for public review and comment. The permanent regulations will



address most of the requirements of SB 4 and be timed to go into effect by January 1, 2015, as SB 4 requires. These regulations will address:

- well stimulation treatments, including the practices of hydraulic fracturing and acid stimulation and permits for those activities;
- neighbor notification and water testing rights and obligations;
- groundwater monitoring obligations;
- public disclosures;
- requirements for post-treatment disclosure and reporting; and
- most other requirements imposed by SB 4.

Two subjects will not be addressed in the permanent regulations: temporary well stimulation treatment approval procedures for the year 2014, and the group authorization of well stimulation treatment projects, as directed by Governor Brown in his SB 4 signing message. Rulemaking proceedings covering each of these areas will be addressed later, as described below.

Late November, 2013: Determining the Scope of the Statewide Environmental Impact Report.

SB 4 requires the Division to prepare an EIR to evaluate and inform decision-makers and the public of potential environmental impacts of well stimulation in the state. The Division and Department will begin the process of “scoping” this document in late November of 2013. The scoping process will define the extent of coverage of the EIR within the parameters established under SB 4 and CEQA. SB 4 requires the EIR to be completed and certified by July 1, 2015.

December 13, 2013: Emergency Regulations to Address Interim Well Stimulation Treatment Procedure.

SB 4 includes a streamlined interim procedure to be used for a one-year period beginning in January, 2014, in which owners or operators may proceed with well stimulation treatments without a permit if they comply with specified provisions of the Act. The Division will use its emergency regulatory authority to set up rules for this 2014 interim process, releasing emergency regulations in on December 13, 2013. At present, the emergency regulations are anticipated to:

- define well stimulation treatments covered by the interim procedure, including threshold values for acid volume;
- with assistance from the State Water Board, provide initial guidance for owners and operators on the development of groundwater monitoring plans
- specify how operators are to certify compliance with SB 4, including disclosures relating to:
 - the date and location of the well stimulation treatment
 - the makeup and volume of fluids other than water, by CAS number and trade name
 - disposition of fluids
 - tracer use



- radioactivity of produced fluids
- water use and water management planning compliance
- groundwater monitoring compliance
- compliance with requirements for neighbor notification and neighbor testing rights
- the posting of chemical information to the Internet

Additionally, the State Water Board will provide interim standards and protocols that independent third party contractors will need to meet in order to be designed by the State Water Board as qualified to conduct water quality testing of neighbors' wells and surface waters.

December, 2013: Initiate Independent Scientific Study. SB 4 requires the Natural Resources Agency to conduct a study of well stimulation treatments, including hydraulic fracturing and acid well stimulation treatments, to be completed by January 1, 2015. The Natural Resources Agency is currently developing the scope of the study and will begin the analysis in December 2013 in anticipation of meeting the statutory deadline of January 2015.

January, 2014: Development of Group Permit Procedures. When Governor Brown signed SB 4, he directed that the Department's well stimulation treatment permit program should be one that "groups permits together based on factors such as known geologic conditions and environmental impacts, while providing for more particularized review in other situations when necessary." Beginning in January of 2014, the Department will convene one or more workshops to begin the discussion of the implementation of this directive in regulations. The Department will receive stakeholder input at the workshops and develop a proposed regulatory procedure for group permitting by March 2014. That proposal will go through the rulemaking process with a goal of an effective date as soon as possible after the effective date of the permanent regulations.

